Your committee believes that this latter amount should receive the same tax treatment as the amount previously granted, inasmuch as both represent compensation for the same services. Therefore, in order to avoid any uncertainty, section 610 of your committee's bill provides that the additional payments authorized by the December 4, 1950, order shall be included in income for the years in which the railroads rendered the services for which the additional payments were made. It is specifically provided that no interest shall be due with respect to any period prior to July 1, 1951, for deficiencies resulting from the inclusion of the additional payments in the back years.

It is estimated that inclusion of these payments in the back years will result in about $10 million less revenue than if they were taxed in the year in which received.

21. Income from discharge of indebtedness

Section 22 (b) (9) of the code excludes from gross income, in the case of a corporation, the amount of income attributable to the discharge of indebtedness evidenced by a bond, debenture, note, certificate, or other evidence of indebtedness. The provisions of this section are temporary under existing law and expire automatically on December 31, 1951. Section 304 of your committee's bill provides for the permanent enactment of the section.

The exclusion provided by section 22 (b) (9) is to be applicable only if the corporation consents to a reduction in the basis of its properties under section 113 (b) (3) in accordance with the regulations then in effect. The reduction of basis under section 113 (b) (3) is in an amount equal to the income excluded under section 22 (b) (9). In the event an amount is excluded from gross income under these provisions, an adjustment is made for unamortized premium or unamortized discount on the discharged obligation.

The Secretary of the Treasury has authority under section 113 (b) (3) to prescribe regulations which will set forth rules under which the adjustment to basis shall be made. Existing regulations (sec. 29.113 (b) (3)-1 of Regulations 111) provide that an amount equal to the excluded income is first to be applied in reduction of the basis of the specific property (other than inventory, notes, or accounts receivable) in the acquisition of which the indebtedness was incurred. The reduction of basis in such case merely reflects an adjustment in the purchase price of the property. The reduction of basis under the regulations is then successively applied to the following classes of property: (1) Property securing the indebtedness, (2) other property of the taxpayer, and finally (3) inventory and accounts and notes receivable. Within these classes, the reduction in basis is applied proportionately to the property included in the class without regard to whether the property is depreciable or nondepreciable. In order to assure that the exclusion of income by operation of section 22 (b) (9) may result only in a temporary postponement of the tax liability, your committee understands that the Secretary of the Treasury will require by regulations that, after adjustment of the basis of certain property acquired with the purchase money indebtedness, whatever reduction in basis of property remains to be taken under section 113 (b) (3) will be taken, in general, against depreciable property or property subject to cost depletion and only as a last resort against nondepreciable property. Thus, in general, it is intended that a reduction in the basis of nondepreciable property will be made only after the exhaustion of depreciable property or property subject to cost depletion. This provision will assure the collection within a reasonable time of the taxes postponed and will, therefore, have no appreciable, long-run effect on the revenue.

Section 304 of your committee's bill makes a technical amendment to section 22 (b) (9) to allow for greater flexibility as to the time for filing the required consent to a reduction of basis. Under the present law, the taxpayer must file its consent with its return for the taxable year. The bill amends the section to provide that the consent shall be filed at such time as the Secretary of the Treasury may prescribe. Under this amendment, the Department could continue to require that the consent be filed with the return in the ordinary case, but might make provision for filing of the consent at a later date in appropriate hardship cases.

Your committee has provided that this amendment shall be effective with respect to taxable years ending after December 31, 1950.

Section 304 of your committee's bill extends for an additional 3-year period the exclusion provided for railroad corporations under section 22 (b) (10) of the code. Section 22 (b) (10) provides that the amount of income attributable to the discharge of any indebtedness of a railroad corporation, as defined in section 77 (m) of the National Bankruptcy Act, shall be excluded to the extent that such income is deemed to have been realized by a modification or cancellation of indebtedness pursuant to an order of the court in a receivership proceeding or a proceeding under section 77 of the National Bankruptcy Act. This section also expires automatically on December 31, 1951. Unlike section 22 (b) (9), section 22 (b) (10) does not require a reduction in the basis of the taxpayer's properties as a condition to the exclusion of the income. The extension of the expiration date of section 22 (b) (10) made by this section of your committee's bill is to December 31, 1954.

The revenue loss from these amendments is expected to be negligible.

22. *Liquidation of corporations*

Under the Revenue Act of 1950, domestic corporations, including personal holding companies, may be liquidated under section 112 (b) (7) of the code for a limited period without payment of capital gain tax by the stockholders on the appreciation in value of assets held by the companies. In general, in the case of gain on stock held by individuals only that portion of the distribution to the shareholders which represents accumulated earnings is to be taxed, to the extent of the gain, as ordinary income. So much of the remainder, to the extent of the balance of the gain as consists of money, or of stock or of securities acquired by the corporation after a basic date (August 15, 1950) is to be treated as a capital gain.

Under section 112 (b) (7) in its pre-1950 form, a similar election was available when the plan of liquidation was adopted after the date of enactment of the Revenue Act of 1943 and put into effect during the calendar year 1944. Under the amendment made by the Revenue Act of 1950, this election was restored for plans of liquidation adopted after December 31, 1950, and effected during any one calendar month in 1951.

Section 316 of your committee's bill extends the application of section 112 (b) (7) so that taxpayers may exercise a similar election to cover liquidations of corporations during 1952. This 1-year extension of the election will facilitate the liquidation of domestic personal holding companies. The committee believes it desirable to expedite the liquidation of such companies.

This provision of your committee's bill is effective with respect to taxable years ending after December 31, 1951.

It is anticipated that the revenue loss resulting from this amendment will be negligible.

23. Capital gains of corporations improperly accumulating surplus (sec. 102)

Section 102 of the code imposes an additional tax on corporations improperly accumulating surplus to avoid payment of surtax by stockholders. This additional tax is imposed on the undistributed "section 102 net income", which is, in general, net income minus the normal tax, surtax, and excess profits tax of the corporation. Under present law, the section 102 tax applies to the long-term capital gains of the corporation as well as to its ordinary income. Your committee is of the opinion, however, that the problem of avoidance of surtax by stockholders does not arise in the case of net long-term capital gains, since these gains would have been taxed at a maximum rate of 25 percent if they had been realized by the stockholder directly. Furthermore, with present high replacement costs, corporate capital gains must be reinvested in order to keep the corporation's business activities at their current level. Therefore, section 315 of your committee's bill amends section 102 in order to exclude net long term capital gains from the undistributed income subject to the section 102 tax. However, this amendment further provides that the capital gain tax is not to be allowed as a deduction in computing income subject to the section 102 tax.

This provision is effective with respect to taxable years beginning after December 31, 1950.

The revenue loss from this amendment is expected to be negligible.

24. LIFO method of accounting

Under the present law taxpayers using the LIFO inventory method have until the end of 1952 in which to make replacements of inventories involuntarily depleted during World War II. They have until the end of 1955 to make replacements of inventories involuntarily depleted during the present emergency. However, inventory replacements are required to be attributed to the most recent liquidations not already replaced, so that a replacement before the end of 1952 must be treated as a replacement of inventory liquidated during the present emergency before any inventory increases can be treated as replacements of inventory liquidated during World War II. This makes it difficult for taxpayers now suffering liquidations to replace World War II inventory liquidations before the end of 1952.

Section 306 of your committee's bill corrects this situation by providing, in effect, that replacements made prior to 1953 are first to be deemed to be replacements of liquidations during the World War II period rather than first being deemed to be replacements of liquidations during the present emergency.

This provision of your committee's bill is effective with respect to taxable years ending after June 30, 1950.

The revenue loss from this amendment is expected to be small.

25. Exchanges and distributions under SEC orders

Supplement R of chapter 1 of the Code provides, in general, that gain shall not be recognized to a corporation transferring property to another corporation which is a member of the same system group if the transfer is under order of the Securities and Exchange Commission. A "system group" is there defined as a chain of corporations connected with a common parent through 90-percent ownership of each class of stock other than stock preferred both as to dividends and assets.

A case has been brought to the attention of your committee in which a parent corporation owned over 96 percent of a $46 million stock issue but owned slightly less than 90 percent of a $15,000 stock issue which was preferred as to dividends but not as to assets. Thus, under the present provisions of Supplement R this corporation's failure to own 90 percent of the $15,000 issue results in the nonrecognition-of-gain provision being inapplicable in this case. Your committee believes this application of the rule to be unduly harsh in its results.

Therefore, section 337 of your committee's bill amends Supplement R to provide that, in addition to the present definition of a system group, corporations be permitted to qualify as a system group if the parent owns 90 percent of each class of stock other than preferred stock and other than stock which is preferred as to dividends but not as to assets if the value of such stock is less than 1 percent of the aggregate value of all classes of nonpreferred stock.

This amendment is effective with respect to taxable years affected by an exchange or distribution made after December 31, 1947.

The revenue loss under this amendment will be negligible.

26. Preferred stock of public utilities

Section 611 of your committee's bill is intended to correct section 15 (a) of the code which permits public utilities furnishing telephone service, electrical energy, gas, or water to take a partial credit against net income for dividends paid on preferred stock originally issued before October 1, 1942. The existing credit is designed to give these public utilities a tax saving equal to 14 percent of the amount of the preferred stock dividends. The provision of your committee's bill amends section 15 (a) with respect to taxable years beginning before April 1, 1951, to make the intercorporate dividends-received credit available in the case of dividends on preferred stock of public utilities if the special dividends paid credit for public utilities provided by section 26 (b) has not been received by the utility.

The revenue loss resulting from this amendment will be negligible.

27. Earnings of dependents

Section 25 (b) (1) (D) of the code allows a taxpayer, as a credit against net income, an exemption of $600 for each dependent whose gross income in the year is less than $500. Prior to the Revenue Act of 1948, the exemption for dependents amounted to $500. Thus, before the amendment made by that act, the amount of the exemption conformed with the amount of earnings which a dependent was allowed before the taxpayer was denied an exemption on his account. However, in increasing the exemption to $600, the 1948 act failed to make an equivalent increase in the amount of the dependent's allowable earnings.

Your committee believes that these provisions of present law should be brought into conformity. Not only is the present treatment inconsistent, but it leads inevitably to confusion on the part of taxpayers.

For this reason, section 310 of your committee's bill amends section 25 (b) (1) (D) in order to permit the exemption for dependents whose earnings are less than $600.

This amendment applies to taxable years beginning after December 31, 1950.

The revenue loss from this provision is expected to be small.

28. Mine exploration expenditures

It is generally recognized that the presently available mineral resources of this country are in many respects deficient in view of the ever-increasing demands of our economy, especially in an emergency period such as the present. Not only is this true with many common metals such as copper, zinc, and lead, but it is even more true with respect to many rare metals and nonmetallic minerals. Intensified and expanded efforts to find new deposits of ores and other minerals are highly desirable.

Under present law, expenditures for ascertaining the location, extent, and quality of mineral deposits cannot be deducted (unless such expenditures produce no useful results, in which case they can be deducted as with any other loss), but must be capitalized. Amounts so capitalized can be recovered for tax purposes only through depletion allowances. Moreover, if the depletion allowance is based upon a percentage of gross income from the property, this deduction is the same whether a large or a small sum was spent for exploration, so that there is no special tax incentive for increased exploration expenditures.

Your committee believes that a special incentive for increased exploration for mineral deposits is desirable, especially in the case of taxpayers with limited financial resources. Therefore, section 341 of your committee's bill provides that with respect to expenditures made to ascertain the existence, location, extent, or quality of any deposit of ore or other mineral (other than oil and gas), prior to the development stage of a mine, the taxpayer may elect to deduct in any taxable year any amount up to $75,000 paid or incurred in that year; or he may defer any amount up to $75,000 not deducted in the current year, and deduct that amount ratably as the minerals discovered or explored as the result of the expenditure are sold. Any taxpayer may treat such expenditures made in any 4 years, up to $75,000 per year, as deductible in either of these ways; after he has done this for 4 years, additional expenditures for exploration must be capitalized as under present law. Amounts so deducted will be a substitute for cost depletion based on such expenditures, but the allowances for depletion based upon a percentage of gross profit will not be affected.

The reduction in revenue resulting from this provision is expected to be ———— in a full year's operation.

The amendments made by this section of your committee's bill will apply to taxable years ending after December 30, 1950.

29. Corporate liquidations accompanied by reorganizations

Section 112 (c) (2) of the code provides, in effect, that if a distribution of cash or other property together with stock or securities is "made in pursuance of a plan of reorganization," but "has the effect of the distribution of a taxable dividend," then the excess of the value of the cash or other property and stock or securities received by the stockholder over the cost or other basis of his stock, which would otherwise be taxable as a capital gain to the extent of the cash or other property received, shall, to the same extent and to the extent of the earnings and profits so distributed, be taxed at ordinary rates as if the cash or other property had been received as a dividend.

This provision was intended to apply to a situation where a corporation with accumulated earnings and profits in the form of cash or the equivalent transferred its operating assets to a newly formed corporation in exchange for its stock and then distributed the cash and the stock of the new corporation to its stockholders. In such cases the corporation can continue its industrial or commercial operations under the new corporation's charter exactly as it would have done had there been no reorganization but merely the distribution of a cash dividend to its shareholders. In such cases the underlying realities and not the outward forms of the transaction should determine the tax consequences.

However, there are situations which involve a reorganization which is only incidental to the actual discontinuance and liquidation of a business, and where the reorganization is expedient to carry out certain necessary transactions. Such a case was brought to the attention of your committee. In that case a corporation which had been engaged in certain industrial operations for many years terminated those operations, sold its remaining industrial plant and equipment, collected its accounts receivable, and prepared to completely liquidate. However, among its assets, in addition to a substantial amount of cash obtained from the disposal of its operating assets, were several tracts of unimproved land. It was not desirable to sell the land, since valuable leases could be executed with respect to much of it. Neither was it expedient to distribute the land to a number of stockholders, living in different parts of the country, since joint execution of leases, collection of rents, etc. would be impracticable. So the land was transferred to a newly organized corporation for its stock and that stock, together with the proceeds of the sale of the operating assets, was distributed to the stockholders in complete liquidation and the old corporation was dissolved.

It appears that in such cases we have, not a continuation of an existing business with a mere change in corporate identity to afford an excuse for a distribution of earnings and profits in the guise of a liquidation, but a bona fide liquidation resulting from the termination of business operations, and the formation of a new corporation incidental thereto motivated by sound business reasons. Nevertheless, it seems probable that the Treasury Department will hold that in such taxes a taxable dividend was distributed, in view of the language of a decision of the Supreme Court (*Estate of Bedford*, 325 U. S. 283), which appears to indicate that any distribution of cash or the equivalent, where the corporation has undistributed earnings and profits, in connection with a reorganization, is a distribution of a taxable dividend.

To avoid hardships which might result from unduly rigid interpretations of section 112 (c) (2) of the code, your committee provides, in section 342 of the bill, that where a corporation, as part of a plan of liquidation, exchanges unimproved real estate which is only part of its assets for stock of a new corporation and thereafter distributes such stock and its remaining assets in liquidation, the gains to the shareholders resulting from such distribution shall be treated as capital gains and not as taxable dividends. This treatment is provided only if there was a "sound business reason" for the formation of the new corporation, if the corporation "was organized and is operated for the sole purpose of holding title to such real estate and collecting income from the leasing or sale thereof and if the business of the old corporation is discontinued." The provision is made applicable to taxable years beginning after December 31, 1947.

It is expected that the reduction in revenue resulting from this provision will be small.

C. Provisions of the House Bill Not Accepted by Your Committee

1. Withholding on dividends, interest, and royalties

Part I of title II of the House bill provides for withholding at the rate of 20 percent in the case of dividends, certain interest (principally corporate bond interest), and royalties. Under existing law recipients of such incomes are required to report the total amount received as income on their annual income-tax returns. Withholding is required of the payor only in the case of nonresident aliens.

The stated purpose of the House bill is to improve compliance on the part of taxpayers with respect to these types of investment income. Various estimates have been made to the effect that for calendar year 1951 underreporting in this area may reach as much as $3 billion.

While your committee recognizes that there may well be substantial underreporting of such income, largely through carelessness on the part of taxpayers, it does not believe that sufficient investigation of the problem has been made to justify such a drastic solution as the House bill proposes. Your committee believes that the withholding provisions of the House bill would work a great hardship upon many taxpayers and impose expensive administrative burdens upon the withholding agents.

The most obvious inequity which would result from adoption of the House provisions would, of course, be that withholding would be applied to many taxpayers who in fact have no income-tax liability. This hardship would be particularly severe, for example, with respect to an elderly retired individual living on a small investment income. As a result of withholding at the source, such a person's income would be reduced by 20 percent at the time he receives it. The taxpayer would be out-of-pocket this amount until such time as he could file a claim for refund and his claim could be acted upon. No system has yet been devised which, in your committee's opinion, would provide refunds speedily enough to mitigate this hardship. Your committee also fears that many taxpayers, especially those in the lower income brackets, would, either through misunderstanding or carelessness, fail to apply for the refunds due them, thus, being deprived permanently of a portion of their income.

This type of inequity can also be acute in the case of tax-exempt organizations which depend for their support largely upon investment income. While the House bill attempts to reduce this difficulty by permitting such organizations to take the refunds due them as a credit against any withholding tax liability with respect to their employees, your committee believes this to be only a limited solution, especially with respect to such organizations with small payrolls.

It has been argued that withholding on dividends, interest, and royalties will remove an existing discrimination against wage earners whose earnings are generally withheld upon today. However, it should be pointed out that under the House bill the proposed 20 percent withholding rate would be applied to the enumerated types of dividends, interest, and royalty payments without allowance for any personal exemptions. This is not true with respect to wage withholding. Thus the hardship imposed upon recipients of investment income, especially those with large family responsibilities, would be greater than any now imposed upon wage earners.

In addition to the hardships described above with respect to the individuals to be withheld upon under the House bill, your committee foresees the imposition of greatly increased administrative burdens upon the withholding agents if the plan were adopted. Although the proposal contains no provision which would require payor corporations to notify their stockholders of amounts withheld from dividends, it is obvious that good stockholder relations will in practice require that this be done in many cases. It is likewise probable that the burden will frequently fall upon the withholding agent to explain to the income recipient why his payments have suddenly been reduced. These consequences, in addition to the statutory requirements of withholding in the case of each of many recipients and transmittal of these amounts to the Government, will clearly impose considerable expense upon withholding agents.

It has been noted that the House provision would also require withholding with respect to royalty payments. Your committee has not been shown any need for withholding in this area. Royalty payments are much more apt to represent large amounts than is true in the case of dividends and interest and are more apt to be received at regular intervals over a long period of time. For these reasons such payments are more likely to be included in the payee's income. Your committee believes it unlikely that there is any substantial underreporting in this area. It should be pointed out that royalty payments with respect to minerals are frequently subject to depletion and various expense deductions. The House bill makes no allowance for such deductions.

While the House bill requires withholding only on limited types of interest, principally interest on corporate bonds, your committee believes there are still many unresolved problems with respect to the interest upon which withholding has been proposed. This is true, for example, with respect to the treatment of transfers of certain types of coupon bonds.

Examination of income tax returns through a "sampling" technique is reported to indicate substantial underreporting of various forms of investment income. However, no effort has been made to determine the extent to which dividends, interest, and royalties are paid to persons who file no tax returns. Thus, no accurate information has been developed which would indicate either (1) the proportion of individuals not now required to file returns who receive income from dividends, interest, and royalties and would, therefore, be required to file for refunds if withholding were imposed, or (2) the number of individuals who receive dividends, interest, and royalties who do not file returns but who should do so. Information of this type is essential to any appraisal of the need and the desirability for legislation in this area. It is hoped that the Bureau of Internal Revenue will make every attempt to secure this information.

In view of the serious objections to the withholding plan of the House bill described above and the lack of essential information just referred to, your committee has not included the withholding provisions in its bill.

It has been estimated that the withholding provisions of the House bill would increase the revenues by $323 million annually.

The House bill requires the furnishing of information at the source as to all payments of interest subject to withholding of $300 or over and requires similar information as to all other interest payments of over $100. Below those amounts information could be required at the discretion of the Secretary of the Treasury. Under present law, interest payments of $600 or more are required to be reported. Section 332 of your committee's bill amends this provision to give the Secretary discretionary authority to require information returns as to interest payments of any amount. Moreover, the provisions of present law which authorize that payments of dividends in any amount be reported at the discretion of the Secretary are retained. Your committee believes that these informational requirements, in addition to the widespread publicity which has been given recently to the problem of underreporting of these types of investment income, should substantially improve taxpayer compliance in this entire area.

2. Surtax exemptions and minimum excess profits tax credits of related corporations

Under existing law the $25,000 corporate surtax exemption and the $25,000 minimum credit under the excess profits tax are available to each member of a group or chain of related corporations. It has been claimed that this treatment confers an unwarranted tax advantage on businesses carried out by means of a series of corporations, rather than a single corporation, and sets up an incentive for the artificial splitting-up of corporations. It is argued that this effect of the existing law is difficult to reconcile with the fact that the surtax exemption and the minimum credit were intended to confer tax advantages on small business. In an attempt to correct this situation, section 123 of the House bill would reduce to one the number of surtax exemptions which may be claimed by a group of "related" corporations and would limit the minimum excess profits tax credit to a single credit of $25,000 for the entire group.

Under the House bill the $25,000 surtax exemption and the $25,000 minimum excess profits credit would be divided equally among the related corporations unless they elect another method of apportionment. Such an election would be made by filing with the Secretary of the Treasury a consent indicating the portion of the $25,000 which would be taken by each of the related corporations as its surtax exemption for the taxable year. This election would permit the related corporations to absorb the full surtax exemption and the full minimum excess profits credit so long as the group has a combined surtax net income of $25,000.

A "related" group of corporations is defined in the House bill so as to include one or more chains of corporations connected through ownership with a common parent corporation when at least 95 percent of the voting power of all classes of stock of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations, and the common parent owns directly stock possessing at least 95 percent of the voting power of all classes of stock of at least one of the other corporations, excluding, in computing such voting power, stock held by such other corporations. A "related" group would also exist if at least 95 percent of the voting power of all classes of stock of each of two or more corporations were owned, directly or indirectly, by or for one individual, or if at least 95 percent were owned, directly or indirectly, by or for not more than five individuals each of whom owns substantially the same proportion of the voting power in each of the corporations.

In determining the extent of an individual's holdings of the stock of a corporation for this purpose under the House bill, he would be deemed to own stock held directly or indirectly by or for his spouse, and also that portion of the stock owned by a corporation, partnership, estate, or trust in which he holds an interest, which reflects the extent of his interest in such corporation, partnership, estate, or trust. If he and his spouse own directly or indirectly more than 50 percent of the voting power of a corporation he would be considered to own also the stock in that corporation held directly or indirectly by his ancestors and lineal descendants.

Your committee realizes that there may be some opportunities for tax avoidance under present law through the use of multiple corporations, although it should be pointed out that sections 45 and 129 of the code now afford the Government protection in cases where the principal purpose of the formation of multiple corporations can be shown to be the avoidance of taxes. However, the House bill is so broad in its attack on this problem that, if enacted, it could result in substantial injury to many businesses whose present corporate organization has not been motivated by tax avoidance.

Many businesses were organized in the form of multiple corporations long before the present surtax exemption and minimum excess profits tax credit were introduced. A business may be required to incorporate separately in each State in which it carries on its activities. Furthermore, State laws sometimes prohibit the chartering of a corporation for more than one business purpose. A related corporation frequently will be formed for the purpose of limiting liability with respect to the development of a new and risky enterprise. All of these are traditional and legitimate purposes for the creation of new and separate corporations, yet the House bill would strike at these bona fide corporate entities in the same manner as it would treat cases of true tax avoidance.

Corporations defined as "related" under the House bill may, in fact, be carrying on entirely unrelated types of business with few or no transactions between the members of the related groups. In such cases, failure to extend the full surtax exemption and the full excess profits tax credit to each corporation could affect seriously its competitive position with respect to other corporations of similar size carrying on the same type of business.

The provisions of the House bill would apply to corporations without regard to when they were formed. This would work a particular hardship on those related corporations which were organized in the past for legitimate business reasons. It should be noted that the denial of the full surtax exemption and the full minimum excess profits tax credit can result in a very substantial increase in tax liabilities, especially in the case of small corporations. On the other hand, to limit a provision such as that of the House bill to corporations created in the future would give rise to numerous competitive discriminations between new and old corporations.

For these reasons, your committee has eliminated entirely this provision of the House bill. Any future study undertaken to develop methods of limiting avoidance in this area should emphasize the importance of correcting the true cases of avoidance without working a hardship on legitimate business organizations.

It was estimated that the House provision would have increased the revenues by about $54 million annually.

3. Sale of property to controlled corporations

Section 310 of the House bill is intended to forestall a reported practice of selling depreciable assets to a corporation controlled by the taxpayer in order to obtain certain benefits available under existing law. For example, if the taxpayer owns a patent, or a building which has materially increased in value and which he sells to a corporation which he likewise controls, the capital gains tax must ordinarily be paid by the taxpayer, but the building then has, in the hands of the corporation, an adjusted basis which is greater than the basis in the hands of the taxpayer by the amount of the gain realized on the sale to the corporation. The property being depreciable, the corporation will then be able to write off the increase in the adjusted basis over the remaining life of the building. These additional depreciation charges are, of course, an offset to ordinary income. Thus, in effect, the immediate payment of the capital gains tax has been substituted for the elimination over a period of years of the corporate income taxes on an equivalent amount.

The House bill attempted to eliminate the tax advantage from such transactions by denying capital gain treatment to the transferor with respect to sales or exchanges of depreciable property between a husband and wife or between an individual and a corporation more than half of the outstanding stock of which is owned by or for him directly or indirectly. For the purpose of determining ownership of stock under the House bill an individual would be considered as owning a portion of the stock held by a corporation, partnership, state or trust which reflects his interest as a shareholder, partner, or beneficiary. He would also be considered as owning stock owned directly or indirectly by or for his spouse, and if he and his spouse owned more than 10 percent of the outstanding stock of the company, he would also be considered as owning stock held directly or indirectly, by or for his brothers and sisters, ancestors and lineal descendants.

Upon consideration of this problem by your committee, it is of the opinion that a closer examination into the reported cases should be made before an amendment of this type is adopted. It appears that the House provision would deny capital gains treatment to some bona fide transactions while failing to deny such treatment in cases of clear avoidance. For example, under the provision there would be no bar to the sale of property to a third person who then could sell it to the corporation. Your committee believes that action on this problem should be deferred until actual cases involving use of this avoidance device have been submitted for study. For this reason the bill eliminates the House provision.

It was estimated that the House provision would have increased the revenue by $1 million annually.

VII. STRUCTURAL CHANGES IN THE EXCESS PROFITS TAX

Your committee's action with respect to the over-all ceiling on the excess profits tax and its action relating to the House amendment which reduced the excess profits income credit from 85 to 75 percent of average base period net income have been discussed in part IV of this report pertaining to general corporate rate changes.

In addition, your committee's bill includes several new provisions which deal with various other excess profits tax problems of a relief nature. A great number of these problems were brought to the attention of the committee during its hearings on this bill, and these problems were examined by the staff. Your committee has confined its action to those cases which present the most immediate and pressing need for statutory change. Of necessity, the committee has deferred action upon the bulk of excess profits tax proposals even though a number of the suggestions undoubtedly are meritorious.

It is believed that further action in this entire area should be deferred until the excess profits tax returns have been filed and there has been an opportunity to evaluate the detailed operation of the law. It is anticipated that this will be possible early in 1952. In the meantime, the staff will continue its study of the problems involved in this entire field.

In general, the following excess profits tax amendments made by your committee are effective retroactively to the time the excess profits tax became effective.

It is estimated that the excess profits tax amendments discussed below will decrease revenues by $120 million in a full year of operation.

1. Extension of growth alternative to new corporations

Under section 445 of the present excess profits tax law, new corporations (those corporations which commenced business after the beginning of the base period) are entitled to compute a substitute earnings credit based on the industry rate of return applied to their total assets. They may also compute their earnings credit by averaging their base period earnings over 3 years, treating loss years and years in which they were not in business as zero. They are also entitled to the minimum excess profits credit of $25,000. They may also use the ordinary invested capital credit.

While considerable attention was given to the problem of new corporations in the preparation of the present excess profits tax law, the primary relief provided them, namely, the use of an alternative average earnings credit based upon their industry rate of return, often proves inadequate. Many new corporations have only limited assets to which they can apply the industry rate. Furthermore, the industry rate is often especially unrealistic in the case of new corporations because they frequently are engaged in relatively speculative undertakings and in various specialized activities which cannot be compared satisfactorily with the operations of established companies.

The major failure of the present treatment of new corporations is a failure to give adequate recognition to the growth typical of their normal development. New corporations are not entitled to the growth alternative under section 435 (e) of present law because this relief is available only to corporations which commenced business before the beginning of their base period (ordinarily January 1, 1946, and in no case later than April 1, 1946). The growth alternative was limited to corporations which commenced business before the beginning of the base period because the eligibility tests are based on comparisons of 1946 and 1947 with 1948 and 1949 or the first half of 1950, and it was believed that the extension of the growth formula to new corporations would prove unnecessary in view of the special alternative provided such taxpayers.

Your committee believes that equitable treatment of new corporations requires adequate recognition of the growth characteristic of them. Therefore, section 504 of your committee's bill removes the limitation now found in section 435 (e) (1) which prevents corporations which commenced business during the base period from applying the eligibility tests to their experience. Your committee's amendment will not apply to corporations which commenced business after the end of the base period since the eligibility tests under the growth formula are written in terms of base-period experience. However, such corporations formed in the excess profits tax period will have the benefits of the lower over-all tax ceilings provided by another section of your committee's bill for new corporations.

Corporations formed after 2 years of the base period had elapsed, and before the end of the base period, ordinarily will automatically become eligible for the growth alternative. This is because the eligibility requirements of section 435 (e) (1) (A) (other than the total asset limitation) are based upon a comparison of the taxpayer's total pay roll, or gross receipts, in 1946 and 1947 with its total pay roll, or gross receipts, in 1948 and 1949. Therefore, corporations formed in the latter half of the base period must automatically meet the tests of growth in those respects because such corporations had no pay rolls and no gross receipts in the first half of the base period. For corporations which commenced business prior to the middle of the base period (ordinarily January 1, 1948), qualification for the growth formula will not be automatic as in the case of the corporations described above, but should prove relatively easy in most cases since total payroll or gross receipts for 2 full years of the business in the second half of the base period will be compared with payroll or gross receipts for something less than 2 full years of business in the first half of the base period. This ease of qualification will diminish as the corporation's starting date approaches the beginning of the base period until for a corporation commencing business on the first day of the base period it will be on substantially the same footing as those old corporations now entitled to the growth alternative.

New corporations formed before the end of the base period which meet the eligibility requirements of section 435 (e) (1) (B) will also be entitled under your committee's bill to use the special growth alternative provided in section 435 (e) (2) (G). However, in order to qualify under that provision the corporation will have to have been in existence for all of 1949 and at least part of 1948 in order to meet the entrance requirement that their excess profits net income for the calendar year 1949 must have been not more than 25 percent of their excess profits net income for the calendar year 1948.

2. Special ceiling rate for new corporations

Although section 504 of your committee's bill extends the benefits of the growth alternative to certain new corporations commencing business after January 1, 1946, a number of new corporations will not be benefited by this. No new corporation formed after the end of the base period (usually December 31, 1949), for example, can be eligible for the growth alternative. Moreover, even new corporations commencing business during the base period may find the growth alternative of little benefit to them if their primary expansion in earnings came after 1950. In addition, your committee believes that despite the need for revenue in the present emergency every possible effort must be made to assure the creation and development of new techniques, new processes, and new corporations. This is desirable if the ability of this country to produce is to continue to expand.

As a result it is believed necessary to give assurance to new corporations in their initial period of development that the excess profits tax will not work undue hardship upon them. Section 501 of your committee's bill does this by providing a series of special ceiling rates available only to new corporations. As indicated on page — of this report your committee's bill provides a new type of ceiling rate of 17 percent with respect to excess profits tax liability. For ordinary corporations, this rate is to apply with respect to years beginning after March 31, 1951. On a similar basis, but retroactive to 1950, the first year the excess profits tax was in effect, your committee's bill provides the following series of ceiling rates applicable to excess profits net income which are to be available to certain new corporations organized after the beginning of their base period, with respect to the first $400,000 of their excess profits tax net income:

	Percent
In the first year of a new corporation's business	5
In the second year of a new corporation's business	5
In the third year of a new corporation's business	8
In the fourth year of a new corporation's business	11
In the fifth year of a new corporation's business	14

For that part of the excess profits net income in excess of $400,000, new corporations less than 6 years old are to be subject to a ceiling rate of 15 percent with respect to 1950, 16½ percent with respect to the calendar year 1951, and 17 percent with respect to taxable years beginning after March 31, 1951. Other corporations are also subject to the 16½ percent rate in the calendar year 1951 and the 17 percent rate with respect to taxable years beginning after March 31, 1951, but in their cases these rates are applied to their entire excess profits tax net income. In 1950 these other corporations in effect are subject to a ceiling rate on their entire excess profits tax net income which is at least as high as the 15 percent rate applicable to new corporations with respect to their excess profits tax net income in excess of $400,000.

In all cases the ceiling rates for small corporations will apply only to liability under the excess profits tax.

Your committee decided to provide a series of ceiling rates graduated according to the number of years a new corporation has been in business rather than providing a lower ceiling rate for one or two specific years for new corporations because it believes that the need of new businesses for this type of special relief varies in accordance with the number of years they have been in business. Also, a provision applying lower ceiling rates to specific years would create a notch problem leading to discrimination between companies formed before and companies formed after the "cut-off" dates.

These special ceiling rates, together with the effective income tax rates, will have the effect of providing for 1952 the following maximum effective rates of income and excess profits taxes for the excess profits net income levels shown:

Excess profits net income	Normal tax and surtax effective rates Senate Finance Committee action percent	Maximum effective rate of income and excess profits taxes				
		First and second year 5 percent	Third year 8 percent	Fourth year 11 percent	Fifth year 14 percent	Sixth and subsequent years 17 percent
$60,000	41.58	46.58	49.58	52.58	55.58	58.58
$75,000	43.67	48.67	51.67	54.67	57.67	60.67
$100,000	45.75	50.75	53.75	56.75	59.75	62.75
$200,000	48.88	53.88	56.88	59.88	62.88	65.88
$300,000	49.92	54.92	57.92	60.92	63.92	66.92

These special ceiling rates available to new corporations in their period of development are not to be available to new corporations created as the result of either a tax-free reorganization or a taxable transaction of the type where, under your committee's action, the purchasing corporation would be entitled to base its income credit on the earnings experience of the predecessor. Your committee believes that such corporations do not truly represent "new business." However, where the predecessor corporation in a reorganization or taxable transaction was itself eligible for the special ceiling rates, the new corporation will determine its eligibility on the basis of when its predecessor commenced business. Also these ceiling rates are not to be available to new corporations principally engaged in Government business. Such a corporation is defined as one which derives more than 50 percent of its gross income for the taxable year from a contract or contracts to which the provisions of the Renegotiation Act of 1951 or any prior renegotiation law are applicable. These new businesses are deriving their principal income from Government contracts providing predictable and secure markets for their products, leaving little need for special relief. The special ceiling rates are denied new corporations whose assets were transferred from old corporations under the same control in order to prevent assets being transferred to obtain the benefit of the special ceiling rates. They are also denied new corporations which are controlled by persons owning an old corporation engaged in the same business through old corporations.

The special ceiling rates are available only with respect to the first $400,000 of a new corporation's excess profits net income because it is believed that relief is not needed for new corporations which have rapidly become large corporations. However, making these ceiling rates available with respect to the first $400,000 of excess profits net income, even in the case of the larger corporations, prevents the development of a notch area and discriminatory treatment with respect to new corporations with incomes just over and just under $400,000.

3. *Special relief provision for companies engaged in television broadcasting during the base period*

The bulk of the television broadcasting stations have been developed and are owned by corporations previously engaged in radio broadcasting. The development of television broadcasting has resulted in large losses for a great portion of the combined radio-television broadcasting industry continuing through at least part of 1950. The result of this has been to doubly penalize the industry, because 1947–49 television broadcasting losses have decreased the average earnings of the industry during the base period, while the profits shown for television broadcasting commencing in 1951 have further increased the proportion of the industry's profits which are subject to excess profits tax.

Your committee believes that the problem presented by the radio-television broadcasting business represents a unique situation which deserves special relief. It is an example on an industry-wide basis of new business superimposed on existing business. As a result, the general relief formulas, where available, provide little relief for these cases, since the earnings of the entire industry were depressed during most of the base period when television losses were incurred, but expanded substantially after the end of the base period after the new portion of the industry had begun to reach maturity.

As a result, section 519 of your committee's bill grants corporations which derived, during the base period, part of their gross income from television broadcasting and part from radio broadcasting an alternative method of computing their average earnings base period net income for excess profits tax purposes. They are given two new alternative methods of computing a rate of return for the base period and are permitted to apply to their total assets at the end of their base period whichever rate of return results in the lower tax. The first alternative rate of return is to be computed by eliminating from the corporation's own income in the period 1946 to 1949 its television losses and by eliminating from its assets in the same period those used in the television business. The rate of return is then to be computed on the radio business by the division of the income (excluding television income and losses) by the assets used otherwise than in television business. The second optional method permitted such businesses in the computation of their rate of return is the use of the industry's rate of return for the period 1946 to 1949.

The above method of determining base period earnings, where the company's own experience is used, represents, in effect, what the company would have earned had it remained in the radio broadcasting business alone during the base period but had had the use of the assets held as of 1949 during the entire base period. Due to the lack of data on tax returns for the base period years as to television losses and assets devoted to television business, it is not possible to offer a similar alternative for those using the industry rate of return. Thus, in this case, it was only possible to permit the use of the unadjusted rate of return for the entire radio-television broadcasting industry.

In some cases corporations which are in the radio and television broadcasting business also derive part of their income from some other business, such as newspaper publishing. In order to permit such businesses to use the relief provision described above, section 519 of your committee's bill also provides that such other business may be treated, in effect, as if it were a separate corporation with respect to the computation of average base period net income. The radio and television business in such cases would then be eligible for the relief provision described above. To the average base period net income of the other business or businesses would be added an imputed average base period net income for the radio-television broadcasting portion of the corporation's operations, derived, in the way described in the preceding paragraph, by using either the individual corporation's rate or the industry rate as a return on the radio-television assets at the end of the base period.

4. Taxable exchanges

Part II of the Excess Profits Tax Act of 1950 provides rules under which an acquiring corporation may utilize the earnings experience of a predecessor corporation in computing its own average earnings base. However, under the Excess Profits Tax Act of 1950, the acquiring corporation may use this earnings experience only where the assets of the predecessor corporation were acquired in certain tax-free exchanges. In general, these tax-free exchanges occur where the assets of a predecessor corporation are acquired by the acquiring corporation in exchange for its stock. Under the present law the earnings experience of a predecessor corporation may not be used by an acquiring corporation where the assets were acquired by purchase for cash or in some other type of taxable exchange. This was also true under the World War II excess profits tax, but under that tax, the section 722 relief provisions, under certain conditions, provided for the reconstruction of an earnings record and the earnings experience of a corporation whose assets were purchased by a taxpayer provided, in some cases, a rough measure upon which to base such a reconstruction.

Your committee believes that, in the case of taxable exchanges, subject to certain limitations, where purchasing corporations have obtained substantially all of the assets of a predecessor corporation and such predecessor is liquidated, the earnings experience base of the predecessor corporation should be available to the purchasing corporation. Therefore, section 520 of your committee's bill provides that in the case of taxable exchanges occurring prior to December 1, 1950, where the predecessor corporation has been liquidated and a purchasing corporation has obtained substantially all of the predecessor corporation's assets, the purchasing corporation may use the predecessor corporation's base period experience in computing its average base period net income under the general average method. However, it is to be permitted the use of this base only to the extent that new funds were used for the purchase of these assets. These provisions are also to apply where the predecessor was a partnership, in which case the base period income of the predecessor is to be computed as if it were a corporation. A similar option is to be available for each of two or more corporations, if each new corporation purchased all the assets of a separate business of the predecessor, and the new corporations together purchased all the assets of the predecessor. Where the purchasing corporation purchased a business which comprises only a part of the assets of a predecessor which was liquidated, the portion of the base period experience of the predecessor which is to be made available to the purchasing corporation is to be determined under regulations providing an allocation based on the value or earning experience of the assets purchased by the purchasing corporation.

Your committee's bill further provides that in the case of taxable exchanges a purchasing corporation is not to be denied the use of the earnings base of a predecessor merely on the grounds that a franchise or license, which was an important source of earnings of the predecessor, cannot be transferred from the predecessor to the acquiring corporation, but must be obtained by the latter from the same source. An example of this would be an automobile dealer agency. In such cases the franchise to act as the representative of an automobile manufacturer generally must be acquired directly from the manufacturer.

Your committee's amendment is limited to taxable exchanges occurring before December 1, 1950, because of the possibility of abuse through purchase of corporate assets to obtain an increased excess profits credit if the provision were made applicable to the period after the excess profits tax provisions were known. Also it is believed that the greatest need for relief in the area is in the case of purchases which were made before the excess profits tax, when taxpayers had no way of knowing the future excess profits tax consequences which could result from a decision to enter into a taxable rather than a nontaxable exchange.

5. Base period abnormalities

Under present law, if an abnormality exists in the taxpayer's lowest year of earnings during the base period, that year is automatically eliminated from the average base period net income computation. However, if an abnormality occurred in one of the remaining periods of 12 months or less in the base period, section 442 of the code provides that the taxpayer may, if it was in business at the beginning of its base period, substitute for its actual excess profits net income for the period of the abnormality an amount determined by multiplying its total assets for the last day of the year of the abnormality by the rate of return of its industry for that period.

The alternative average base period net income provided by section 442 is available, if the taxpayer can establish for any taxable year within its base period either that its normal production, output, or operation was interrupted or diminished because of the occurrence, either immediately prior to, or during the taxable year, of events "unusual and peculiar" in the experience of the taxpayer or that the business of the taxpayer was depressed because of temporary economic circumstances unusual in its case. These tests frequently may involve extremely difficult evidentiary problems, particularly with respect to a determination of the extent that any single event has affected the taxpayer's normal production, output or operation.

The philosophy upon which the existing relief provisions, including section 442, were developed was that automatic formulas, both as to eligibility requirements and as to the extent of the relief granted, are preferable to the approach of the World War II law with its requirement of subjective analysis and decision. Your committee believes it is desirable to maintain this approach of present law. Therefore, your committee has adopted an additional alternative eligibility requirement under section 442 which would eliminate, in many cases, the difficulties of proof previously referred to. Section 509 of the bill provides that where the earnings of the taxpayer's third-best base period year were less than 35 percent of the average of the earnings of his two best base period years, the taxpayer will automatically be entitled to use its industry rate of return for the third best year. This new provision is limited, however, so that the substituted earnings may not in any case exceed the average of the taxpayer's two best years.

The requirement of present law that the substitute excess profits net income provided by section 442 may be utilized for a single abnormal year only if it exceeds 110 percent of the taxpayer's excess profits net income for that year computed without the substitution will not apply to taxpayers who are eligible under your committee's amendment. Such a limitation is not necessary in view of the fact that the amendment requires no showing of an abnormality.

6. Change in products committed to prior to close of base period

Section 443 of present law provides that where a corporation made a substantial change in the products or services it furnished during the last 3 years of its base period, and, within 3 years after the change, the new product accounted for more than 40 percent of gross income or 33 percent of net income and net income increased 25 percent, then the corporation is entitled to determine its average base period net income by multiplying its industry rate of return by its total assets.

As the above description indicates, present law confines this type of relief to corporations which actually introduced a new product before the end of the base period. The present law limited this relief to products introduced in the base period primarily to avoid the possibility of giving the advantage of an automatic formula to corporations developing new products during the present emergency. However, it is clear that the danger which was sought to be avoided does not exist when the change in product was definitely committed to prior to the end of the base period and construction of the facilities to produce the new product had actually commenced before the beginning of the present emergency. In such cases, negotiations may have started early in the base period with respect to the development of a new product, and with respect to the construction of the necessary additional facilities. In cases similar to this your committee sees no valid reason why the relief intended by section 443 should be denied if carefully restricted so as not to give the benefits to new products developed during the emergency period.

As a result, section 511 of your committee's bill provides that where a substantial change in the products produced by a taxpayer has been made after the end of the base period, such a change shall be deemed to have been made in the base period, for the purpose of qualifying for the alternative average base period net income available under section 443 of the code, if the taxpayer, prior to July 1, 1950, commenced the construction of the facilities necessary to the production of the new product, and if such construction and the production of the new product were in furtherance of a course of action to which the taxpayer (or corporation with which the taxpayer had the privilege of filing a consolidated return for its first excess profits tax year) was committed prior to the end of the base period. This commitment must have been evidenced, under your committee's amendment, by a contract with another person and that contract must have granted a license, franchise, or similar rights essential for the production of the new product.

7. Lessor railroad corporations

Section 448 of the code provides an alternative excess profits tax credit for certain regulated public utilities. In the case of railroads this alternative credit is equal to a return of 6 percent upon net assets after allowance is made for normal tax and surtax. To establish eligibility for this alternative credit a railroad corporation must be engaged "as a common carrier in the furnishing or sale of transportation by railroad" and must be subject to the jurisdiction of the Interstate Commerce Commission. Furthermore, such a railroad can qualify only if 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) is derived from the furnishing or sale of railroad transportation.

Although section 141 of the code permits the filing of consolidated returns by affiliated corporations which are regulated public utilities within the meaning of section 448, doubt has been raised as to whether a lessor railroad corporation which leases substantially all of its property to an operating lessee railroad corporation (which itself utilizes the public utility credit) may be joined with such lessee in the filing of a consolidated return. This problem has arisen because, although the lessor company is subject to the jurisdiction of the Interstate Commerce Commission, and although its properties are operated by the lessee as integral parts of its system in the furnishing or sale of transportation by railroad, and although its revenues, in the form of rental, are derived from such operation, the lessor does not itself operate the property and does not itself directly derive its revenues from the furnishing or sale of transportation.

The use of a consolidated return is desirable in the case of the affiliated corporations described above. Subsequent to the assumption of management and control of the lessor properties by the lessee, the facilities of the two corporations become, in practice, integrated parts of a unified transportation system.

As a result, section 514 of your committee's bill insures that certain lessor railroad corporations will be permitted to qualify for the regulated public utility credit where they file consolidated returns with their lessee railroad corporations.

8. Exempt excess output of sulfur, potash, metallurgical grade limestone and chemical grade limestone

Section 453 of the present law provides a partial exemption for coal and iron mines, timber properties, and natural gas and metal mining properties not in operation during the base period. One-third of the net income in the current taxable year of these properties is exempt from excess profits tax. These provisions are similar to those in effect during World War II and were adopted in order to provide a greater incentive for the opening up of new properties.

Coal and iron mines, timber properties and natural gas properties which were in existence during the base period are also extended special relief under this provision by exempting from excess profits tax one-half the income from excess output during the taxable year. The excess output is the production in excess of average annual production from the property (whether or not then owned by the taxpayer) during the period 1946–June 30, 1950.

Nonmetallic minerals are not provided the special treatment described above, either in the case of new or old properties. Your committee recognizes that critical shortages have developed in certain limited areas which would justify the further extension of these provisions. This is particularly true with respect to sulfur and potash deposits and with respect to metallurgical grade limestone and chemical grade limestone deposits. Sulfur and potash are vital to many defense industries and are in short supply, while metallurgical and chemical grade limestones are a necessity for the steel and chemical industries, which are crucial to defense. It is believed that every incentive should be given for the opening up of new deposits and for the energetic development of existing properties. Therefore, section 515 of your committee's bill extends the special treatment available under sections 453 (b) (2) and (4) to sulfur, potash, and metallurgical or chemical grade limestone deposits.

9. Reductions in inadmissible assets subsequent to the base period

Under the 1950 Excess Profits Tax Act, changes in inadmissible assets subsequent to the base period do not constitute a capital addition or reduction (although reductions in inadmissibles are subtracted from capital reductions and increases in inadmissibles are subtracted from capital additions).

This provision of the present act adversely affects any taxpayer computing its excess profits credit under the income method (and not having a capital reduction after December 31, 1949) if it had substantial investments in inadmissible assets in 1949 which it disposed of in 1950 or 1951 in order to obtain funds to finance expanding manufacturing operations, facilities and inventories. Such a taxpayer's increased earnings resulting from the additional facilities employed in manufacturing operations may, under present law, be treated entirely as excess profits. This is because the taxpayer receives no additional excess profits credit for the funds transferred from inadmissible assets, the income from which was exempt from excess profits tax, to manufacturing facilities and inventories, the income from which is subject to excess profits tax. If the taxpayer obtained the additional capital for manufacturing operations by sale of its own securities or by borrowings, it would obtain an increase in excess profits credit. For such a taxpayer not to receive an additional excess profits credit on additional working capital obtained from disposal of inadmissible assets appears inequitable.

To correct this situation, section 507 of your committee's bill provides that in computing the average earnings credit, reductions in inadmissibles subsequent to the base period are to be allowed a credit as capital additions provided that the additional capital is invested in operating assets. Operating assets are defined as tangible inventory items and tangible property used in the taxpayer's trade or business.

10. Inadmissible assets of banks

Under present law, both the taxpayer using the average earnings credit and the taxpayer using the invested capital credit are allowed to increase their credit by specified percentages of the net additions to their capital after 1949. However, except in the case of taxpayers with less than $5 million of capital who use the invested capital credit based on assets, and, except in the case of taxpayers who use the credit based on the historical invested capital, an increase in investment in inadmissible assets will offset dollar for dollar what would otherwise be a capital addition, even though the increase in total assets available for investment is greater than the increase in capital. For example, if a corporation increases its capital by $1 million on the first day of an excess profits tax year and then on the same day invests $500,000 of the new capital in inadmissible assets, it is only allowed under the present law to increase its credit for that year with respect to $500,000, because the $500,000 increase in inadmissibles is subtracted from the capital addition of $1 million in arriving at the net addition to capital which may be taken into account.

The treatment described above works a considerable hardship upon banks, since they invest additional funds deposited with them as well as their additional capital, so that, for example, investment of 10 percent of their additional assets in inadmissible municipal bonds may completely offset their capital additions. An increase in the capital of a bank makes possible an increase in deposits of several times that amount, total assets being increased by the sum of the new capital and increased deposits. Yet, even though its taxable income is thus increased, under present law the bank may have no additional credit based upon the new capital.

Section 506 of your committee's bill provides that while a bank's increase in inadmissibles in an excess profits tax year will still serve to reduce its increase in capital in the same year, the capital additions will be reduced by an amount based on the ratio of additional inadmissible assets to the additional total assets acquired since the beginning of its first excess profits tax year. A similar proportion is to be used where there is a decrease in inadmissible assets.

This section of the bill also provides an adjustment of the inadmissible asset factor in the computation of base period capital additions for banks which is based on the same ratio principle.

11. Dealers in municipal bonds

In computing the invested capital credit and in computing capital additions, certain adjustments are made to exclude from the invested capital certain assets known as "inadmissible assets." These include stock in other corporations, State and local government obligations and partially tax-exempt Federal obligations. The reason for this exclusion from invested capital of such assets is that the income from them is not subject to the excess profits tax.

However, dealers in municipal bonds are subject to excess profits tax on their profits from the sale of these bonds. This is because municipal bonds are their stock in trade or inventory and the gain on the sale of the bonds is treated, therefore, as ordinary income rather than as a capital gain. It is reported that municipal bonds frequently constitute 80 to 90 percent of the total assets of these dealers.

The above treatment is manifestly inequitable. Because municipal bonds are required to be excluded from the taxpayer's invested capital, he is in practice denied an invested capital credit with which to offset his normal earnings from the sale of such bonds. This inequity did not arise under the World War II excess profits tax because, under that law, taxpayers were permitted, at their option, to treat tax-exempt or partially tax-exempt bonds as admissible assets if they elected to include the interest received from such bonds in excess profits tax net income. Your committee believes that, while a similar option should not be extended to all taxpayers under the present law, because the invested capital credit rates, ranging from 8 to 12 percent, are completely disproportionate to the low-interest rates on tax-exempt bonds, such treatment should be extended to municipal bond dealers since most of their income with respect to these bonds arises from profit on their sale and such income is subject to excess profits tax.

As a result, section 508 of your committee's bill provides, in effect, that where tax-exempt bonds are held by a dealer primarily for sale to customers in the ordinary course of his trade or business, the dealer may elect to treat such bonds as admissible assets, provided that he also elects to include in his excess profits tax net income the interest on such bonds.

12. Regulated public utility credit for intrastate pipelines

The alternative excess profits tax credit for certain regulated public utilities provided by section 448 of the code extends, under present law, to corporations engaged as common carriers in the furnishing or sale of gas, oil or other petroleum products (including shale oil) by pipeline, if subject to the jurisdiction of the Interstate Commerce Commission. The alternative credit in these cases is, in effect, equal to a return of 6 percent upon total equity and borrowed capital after normal tax and surtax.

It has been brought to the attention of your committee, that, since the jurisdiction of the Interstate Commerce Commission extends only to interstate pipelines, the special credit provided by section 448 is denied those pipelines whose operations are entirely intrastate in character. This distinction appears inequitable with respect to these latter corporations if their operations are subject to regulation by State regulatory bodies. The necessity for guaranteeing these utilities a minimum return after normal tax and surtax before application of the excess profits tax would appear to be as clear in this area as with respect to interstate pipelines.

Section 513 of your committee's bill amends section 448 of the code to provide that pipeline common carriers subject to the jurisdiction of the public service commissions of any State shall be eligible for the regulated public utility credit. The same 6 percent credit is made applicable as in the case of interstate pipelines.

13. Management and technical service fees

Section 433 (a) (1) (A) of the present law provides the same 100-percent credit against excess profits net income for dividends received from foreign corporations as is allowed in the case of dividends from domestic corporations. Section 502 of your committee's bill extends a similar exclusion to management and technical service fees paid to domestic corporations by certain affiliated foreign corporations in return for information and other services furnished in connection with products of the type manufactured by the domestic corporation. Your committee believes that the rendering of technical assistance to foreign businesses by American corporations should not be discouraged by subjecting fees received for such services to the excess profits tax. In general, such management and technical service fees do not reflect profits from the domestic rearmament program and are usually small in amount. The exemption is limited so as not to exclude from excess profits tax the income of a corporation whose principal business is furnishing technical, etc., services.

The bill makes a conforming amendment in that it excludes these earnings of domestic corporations from their base period earnings, thus equating the treatment of both base period and excess profits tax period earnings. Likewise any expenses attributable to the production of this type of income are disallowed as deductions under your committee's amendment.

14. Technical amendment relating to new corporations

A new corporation computing its income credit under section 445 for any of its first 3 years which are excess profits tax years is, under the present law, entitled to apply the industry rate of return only to its total assets at the beginning of the excess profits tax period plus its net capital addition less its net capital reduction after the end of the base period. Thus, the industry rate can be applied only to increases in its equity capital and 75 percent of increases in its borrowed capital, to the extent that its assets are acquired after the beginning of its first excess profits tax year. This treatment is less favorable than that provided for other new corporations or that provided for corporations using other relief sections involving the industry rate of return because it provides for the inclusion of only 75 percent of borrowed capital.

Your committee's bill corrects this technical deficiency of present law. Section 512 of the bill provides that a new corporation computing its income credit under section 445 for any of its first 3 years which are excess profits tax years is to be entitled to its industry rate of return applied to equity capital plus 100 percent of borrowed capital, less interest on borrowed capital.

15. Technical amendment of growth alternative

Section 435 (e) (2) (G) of the code provides a special alternative average base period net income for corporations whose excess profits net income for 1949 is not more than 25 percent of its excess profits net income for 1948. In effect, such a taxpayer is granted an alternative average base period net income equal to the sum of one-half its excess profits net income for 1948 and 40 percent of its excess profits net income for 1950.

In order to qualify for the above alternative, present law requires that the taxpayer qualify for the growth credit "only" under the provisions of section 435 (e) (1) (B). The latter section permits the use (without limitation as to the amount of assets) of the general growth alternative if the taxpayer meets certain tests of increased net sales of new products in the base period. However, section 435 (e) (1) (A) has an alternative eligibility requirement for taxpayers whose total assets at the beginning of the base period did not exceed $20 million. This alternative eligibility requirement is based upon certain tests of increased payroll and gross receipts.

Your committee is unaware of any valid reason why the alternative average base period net income provided by section 435 (e) (2) (G) should be denied to taxpayers qualifying for the growth alternative both under section 435 (e) (1) (B) and 435 (e) (1) (A).

To correct this anomaly of present law, section 505 of your committee's bill extends the benefits of section 435 (e) (2) (G) to taxpayers qualifying under section 435 (e) (1) (B) whether or not they qualify under section 435 (e) (1) (A).

16. Base period of fiscal-year corporations

The present law provides certain variations in the base period with respect to corporations on a fiscal-year basis. Taxpayers with fiscal years ending after December 31, but before April 1, use as their base period 48 months ending with their last taxable year ending prior to April 1, 1950. For example, a taxpayer with a March 31 fiscal year has as its base period the 48 months from April 1, 1946, through March 31, 1950. A somewhat different procedure is followed in the case of taxpayers whose fiscal years end after March 31 and before December 31. Such taxpayers are required to use the 48-month period beginning on January 1, 1946, and ending on December 31, 1949. Thus, a taxpayer with fiscal years ending on June 30, for example, must compute its income for the first 6 months of 1946 by taking half its actual income for the year ended June 30, 1946. Such a taxpayer would have its average base period earnings affected by the last two quarters of 1945 and the first quarter of 1946. Inasmuch as those quarters were typified by low earnings generally, the inclusion of that period usually results in a reduction of the taxpayer's average earnings.

In order to correct this hardship, section 503 of your committee's bill provides that the base period of any taxpayer with a fiscal year ending after March 31, 1950, may, at its option, for purposes of the general average method of computing the excess profits credit, be the 48 months ending with March 31, 1950.

17. Consolidated returns

Section 612 of your committee's bill amends the consolidated return provisions of the code to permit a corporation exempt from excess profits tax under section 454 (f) of the code, which has filed a consent to be included in a consolidated return for a taxable year ending after June 30, 1950, the right to amend its election within 90 days after the effective date of this act.

Under the Excess Profits Tax Act of 1950, an affiliated group of corporations entitled to file a consolidated return may include corporations receiving at least 95 percent of their income from foreign sources if these corporations file consents in a taxable year ending after June 30, 1950. Corporations of this type would be exempt from excess profits tax under section 454 (f) of the code unless they file such consents, and these consents are irrevocable. Many of these consents were filed under circumstances where there was inadequate time for the taxpayers to adequately assess the effects of such action.

It is deemed proper to allow them a limited period of time to reconsider their action.

18. Capital reduction for loans made by parent corporations to subsidiaries

Section 510 of your committee's bill provides that where a subsidiary corporation computes its average earnings credit on the basis of the industry rate of return applied to its total assets and where such subsidiary has borrowed funds from its parent corporation on open account, the amount so borrowed shall be eliminated from its total assets.

This is necessary to close a loophole in the existing excess profits law. Under present provisions, a parent corporation does not incur a capital reduction by reason of amounts loaned on open account to subsidiaries. The subsidiary, however, would obtain an increase in the amount of its total assets to which the industry rate of return is applied under several of the relief sections. By excluding from the total assets of the subsidiary the amount represented by such loans from a parent corporation or from a member of a controlled group, the amendment made by your committee prevents duplication in computing the credits of the respective corporations.

This amendment is effective with respect to taxable years ending after the date of enactment of this bill.

19. Transitions from World War II production and increases in peacetime capacity

The attention of your committee has been called to cases where corporations have been fully engaged in war business during World War II and as a result have had difficulties during 1946 and 1947 in converting to peacetime production. As a result, their earnings in these years have been relatively low. Nevertheless, they have invested large amounts in plant and facilities in anticipation of securing a broad-gauge peacetime market. However, to a substantial degree many such corporations were not successful in tooling up for extensive production until 1949 or 1950. Thus, although they are not engaged in war production, such corporations find themselves subject to heavy excess profits taxes although the war economy has had little effect on their business. To the extent that such corporations had low earnings in 1949, they would receive little benefit from the growth provision generally available, even where they are eligible for it.

Your committee believes that corporations of this type whose profits are attributable to peacetime production should be able to use their earnings experience late in the base period and early in 1950 as the basis for the computation of their average earnings base for excess-profits-tax purposes. Therefore, section 516 of your committee's bill extends to corporations meeting certain requirements the benefits of the special growth formula described in section 435 (e) (2) (G) of the code. In general, this permits corporations to compute an alternative average base period net income on the basis of the sum of one-half of their income in 1948 and 40 percent of their income in 1950.

The requirements provided by your committee for the benefits of this provision are:

1. The adjusted basis of the corporation's real property and tangible depreciable property must not be in excess of \$10 million on the first day of its base period.

2. Seventy percent of the corporation's income for the years 1942 through 1945 must be attributable to contracts with the United States or related subcontracts, but less than 20 percent of the corporation's income during the base period and in the calendar year 1950 must be attributable to contracts with the United States or related subcontracts.

3. The unadjusted basis of the corporation's real property and depreciable tangible property at the end of its base period must be 250 percent or more of the basis of such facilities on the first day of its base period.

4. Both the corporation's profits in 1945 and the average of its profits in 1948 and 1949 must be at least 300 percent of the average of its profits for 1946 and 1947.

20. Special relief provision for corporations suffering catastrophes

Section 442 of the code provides that, in the case of corporations having abnormalities in one of their three highest base-period years, their industry rate of return for the year of the abnormality, multiplied by their total assets in such year, may be substituted for the earnings in their year of abnormality. In the case of abnormalities in two or all of their three highest years, it provides that the average industry rate of return for the base period, multiplied by their average total assets for the base period, may be substituted for their base-period earnings. Although your committee believes that this is satisfactory in the case of most abnormalities, it appears that where a fire or explosion or other similar catastrophe has destroyed an important part of the corporation's productive facilities, the credit computed under section 442 may be inadequate. The corporation may have base-period experience prior to the catastrophe which indicates that in the absence of the loss it would have had earnings substantially above the earnings constructed by applying its industry's rate of return to its total assets.

Therefore, section 517 of your committee's bill provides that manufacturing corporations suffering from a catastrophe in the last 36 months of the base period may substitute their average excess profits net income in their base period, prior to the year in which the catastrophe occurred, for their earnings during the year in which the catastrophe occurred.

A catastrophe is defined as a fire, storm, explosion, or other casualty which rendered inoperative all of the facilities of a plant or plants accounting for at least 15 percent of a corporation's total facilities, for a period of at least 12 months during the last 3 years of the base period.

21. Consolidation of newspapers

Where two newspapers have consolidated a majority of their operational facilities, a failure to recognize the increased earnings attributable to that consolidation as normal earnings can result in considerable hardship to the taxpayers involved. This is because credits based on the earnings experience of two independent newspapers in the base period may not fairly represent what the earnings would in fact have been had they consolidated their operations early in or prior to the base period. The fact of consolidation may increase the rate of profit through a smaller overhead force and through the joint use of plant and equipment. Profits attributable to such increased efficiency should not be assumed to be excess profits.

In order to correct this situation, section 518 of your committee's bill extends the alternative average base period net income provided for growth companies under section 435 (e) (2) to any taxpayer which was engaged primarily in the newspaper publishing business prior to the end of the base period and which, after the middle of its base period and prior to June 30, 1950, consolidated substantially all of its mechanical, circulation, advertising, and accounting operations in connection with its newspaper publishing business with the similar operations of another corporation engaged in the newspaper publishing business in the same locality.

In order to be eligible for this alternative, the taxpayer must establish to the satisfaction of the Secretary that the consolidation resulted in substantial reductions in the expenses which would have been incurred had the consolidation not taken place. Furthermore, the deductions of the taxpayer for the taxable year following that of the consolidation must not have been in excess of 80 percent of the average of those deductions for the 2 years preceding the consolidation, and the taxpayer's income in the year following the consolidation must have been at least 125 percent of its average base period income. These eligibility requirements are designed to furnish automatic indications that an increase in income and a reduction in expenses have in fact occurred since the consolidation.

VIII. STRUCTURAL CHANGES IN ESTATE AND GIFT TAXES

A. Provision in the House Bill Also in Your Committee's Bill

1. United States bonds held by nonresident aliens

Section 603 of this bill and section 503 of the House bill contain identical provisions dealing with the status under the estate and gift taxes of obligations of the United States Government owned by nonresident aliens not engaged in trade or business in the United States. Prior to March 1, 1941, the transfers of such obligations were exempt by regulation even though the transfer of similar securities issued by domestic corporations was taxable when the evidence of the obligation was in the United States. This exemption was based on the theory that an exemption from "all taxation" of such bonds when held by foreign investors included exemption under the estate and gift taxes.

On March 1, 1941, a new regulation was issued which made the taxability of transfers of such securities under the estate and gift taxes depend on the same considerations which would apply in the case of bonds of domestic corporations. The new ruling was based on the theory that the exemption of such Government securities from "all taxation" meant exemption from direct taxes only and did not include exemption from the transfer taxes. The new regulation applied only to securities issued after March 1, 1941.

This revised regulation was held to be invalid in *Jandorf's Estate* v. *Commissioner* (171 F. (2d) 464), a decision of the Court of Appeals, Second Circuit, dated December 21, 1948, and in *The Pennsylvania*

Company v. *United States*, a decision of the Court of Appeals, Third Circuit, in November 1950.

Both your committee's bill and the House bill give statutory sanction to the policy of the March 1, 1941, regulation. The result will be that for estate and gift tax purposes United States Government securities will receive the same treatment as other types of domestic bonds. This treatment will also conform with the policy of taxing the interest on such Government bonds under the income tax when received by nonresident aliens.

The amendment will apply only to obligations issued by the United States on or after March 1, 1941, which are transferred in the estates of decedents who die after the date of enactment of the Revenue Act of 1951 or by gifts made after such date.

The revenue effects of this provision are minor.

B. Provisions Added by Your Committee

1. Estate taxes of servicemen killed in Korea

Your committee's bill provides the same estate tax treatment for members of the Armed Forces dying in combat zones or from wounds received in combat zones as was previously provided during World War II.

Section 605 provides that the estate tax shall not apply to the estates of decedents dying while in active service as a member of the military or naval forces of the United States if the decedent was either killed in action while serving in a combat zone, or died as a result of wounds or other injuries, or a disease, suffered while in line of duty by reason of a hazard to which he was subjected as an incident of such military or naval service.

This provision is effective with respect to deaths occurring after the commencement of hostilities in Korea (June 24, 1950) and before January 1, 1954.

2. Pre-1916 transfers with reversionary interests retained

Under the present law a transfer in trust prior to 1931 is not subject to estate tax by reason of the retention of a life estate and a transfer prior to October 8, 1949, is not subject to estate tax by reason of the retention of a reversionary interest unless the reversionary interest is express, rather than arising by operation of law, and exceeds 5 percent of the value of the property immediately before the decedent's death. The present law makes no distinction between transfers made before the enactment of the estate tax, September 8, 1916, and transfers made after that date. However, from 1927 to 1934 the regulations provided that transfers made before enactment of the estate tax would not be taxable. Also, prior to the decision of the Supreme Court in the *Hallock* case in 1940 it was felt that property would not be taxed in a decedent's estate by reason of his retention of a reversionary interest.

A case has been brought to the attention of your committee in which the decedent made a transfer in trust in 1903 retaining a reversionary interest which was worth about 14 percent at the time of her death in December 1949. As a result of the retention of this minor interest, the entire estate is subject to tax.

In order to avoid this severe hardship, section 608 of your committee's bill provides, in effect, that property will not be included in the estate of a decedent by reason of the retention of a reversionary interest in a transfer made prior to September 8, 1916, where the decedent died after February 10, 1939, the date of enactment of the Internal Revenue Code.

3. Reversionary interest of decedents dying prior to February 10, 1939

The provisions of the Technical Changes Act of 1949 apply only with respect to decedents dying after February 10, 1939, the date of enactment of the Internal Revenue Code. In the case of such decedents, property is included in the gross estate by reason of the retention of a reversionary interest in a transfer made before October 8, 1949, only if the reversionary interest is express and is worth more than 5 percent immediately before the decedent's death.

On March 18, 1937, Treasury Decision 4729 was issued by the Treasury Department, providing that property should not be taxed by reason of the retention of a reversionary interest. In order to treat the estates of decedents dying before February 11, 1939, and after March 18, 1937, in accordance with the law then in effect, section 606 of your committee's bill provides that property transferred by a decedent dying in such period is not to be included in the estate of the decedent because of a possibility of reverter if the regulations in effect at the time of the death of the decedent did not provide for the inclusion of property so transferred.

4. Decedents dying in 1950 with pre-1931 life estates retained

The Technical Changes Act of 1949 provided that, in the case of life estates retained in transfers made on or before March 3, 1931 (and in some cases before June 7, 1932), the property would not be included in the decedent's gross estate by reason of retention of the life estate if the decedent died before January 1, 1950. The 1949 act also provided that these life estates could be released free of estate and gift tax at any time during 1949 or 1950. The 1949 act containing this tax-free release provision became law on October 25, 1949. There have been several cases in which decedents died in 1950 before releasing their pre-1931 life estates, possibly because they were not aware of the tax-free release provision or were not in condition to effect a release.

Since these life estates could have been released at any time during 1950 without estate tax, it seems equitable to your committee that the January 1, 1950, date in the 1949 act be changed to January 1, 1951, so that the period in which death might occur without estate tax will be consistent with the period for tax-free release of these life estates.

Therefore, in the case of life estates retained in transfers made on or before March 3, 1931, section 607 of the bill provides that property will not be included in the decedent's gross estate by reason of retention of the life estate if the decedent died before January 1, 1951 (instead of January 1, 1950, as provided by present law).

5. Reversionary interests in life insurance—Decedents dying after October 21, 1942

The Revenue Act of 1942 provided that, in determining the proportion of life-insurance premiums paid by the decedent, premiums paid by a decedent on or before January 10, 1941, shall be included if the decedent at any time after that date possessed an incident of ownership in the policy. Since a reversionary interest was construed to be an incident of ownership, the retention of any reversionary interest, regardless of its size and regardless of whether it was express or by operation of law, had the effect of making the premiums paid by the decedent includible for purposes of the premium payment test. In order to make the treatment of life insurance consistent with the treatment of other property under the Technical Changes Act of 1949, the Revenue Act of 1950 provided that a reversionary interest should be considered an incident of ownership only if it were express and, at some time after January 10, 1941, exceeded 5 percent of the value of the policy. The provision in the 1950 act was an amendment of the Revenue Act of 1942, so that it was effective with respect to the estates of decedents dying after October 21, 1942. However, the 1950 provision did not provide for the reopening of closed cases. In this respect it was different from the 1949 amendment of section 811 (c), which provided a 1-year period during which claims for refund could be filed for closed cases.

In order to correct that deficiency, section 609 of your committee's bill amends section 503 of the Revenue Act of 1950 in order to permit the reopening of closed cases if a claim is filed within 1 year from the date of the enactment of this bill.

6. Foreign estate tax credit

Under present law the United States asserts estate tax liability with respect to the entire estate, wherever situated (except real property outside the United States), of decedents who were either domiciled in the United States or citizens of the United States. Since many other countries, like the United States, tax property situated within their boundaries, estates of nonresident citizens of the United States are quite likely to be subjected to a double tax. With a considerable number of foreign countries, the United States has entered into estate tax conventions which provide relief for this problem and other treaties at present are under consideration. However, in many other cases the possibility of double taxation still exists, and cases have been brought to the attention of your committee where, as a result of this double taxation, estates with foreign investments have been taxed much more heavily than similar estates subject only to domestic tax.

Section 602 of your committee's bill removes this double taxation by providing a foreign estate tax credit in the case of United States citizens and residents (subject to a limitation indicated below) where the double tax arises from the United States imposing a tax on the entire estate, and a foreign country imposing an estate tax on property situated within that country. The foreign estate tax credit is allowed both against the basic estate tax and the additional estate tax. As in the case of the income tax, a foreign tax credit is allowed in the case of those who were residents but not citizens of the United States only if the foreign country in which the decedent was a citizen allows a similar foreign tax credit in the case of citizens of the United States who are residents of that country. As in the case of the foreign tax credit allowed for income tax purposes, the foreign estate tax credit is limited in a manner which permits the offsetting of taxes paid the foreign country with respect to property situated in that country only to the extent that such property is taxed by the United States. Thus, if a foreign country imposes an estate tax at a higher effective rate than that provided by the United States, a credit is to be allowed only to the extent of the effective rate of tax imposed by the United States.

This provision is effective with respect to estates of decedents dying after the date of enactment of this bill.

7. *Works of art loaned by nonresident aliens*

Section 604 of your committee's bill provides that works of art owned by a nonresident alien which are loaned to public galleries or museums in the United States for exhibition purposes shall be exempt from estate tax if the nonresident alien dies while the works of art are in this country.

Present law (sec. 863 (c) of the code) limits the exemption to works of art loaned to the National Gallery of Art.

This provision is effective with respect to estates of decedents dying after the date of enactment of this bill.

The revenue loss from all of the changes in the estate and gift tax changes made by this bill are expected to decrease revenues by $2 million.

IX. EXCISE TAX CHANGES

It is estimated that at the levels of production anticipated in the fiscal year 1952 excise tax changes by your committee's bill, when fully effective, will raise revenues by $1,275 million as compared with $1,252 million under the House bill. As shown in table 11, almost all of the excise-tax revenue provided by both your committee's bill and the House bill is raised from the manufacturers' excises, the new taxes on gambling and the taxes on alcoholic beverages and tobacco. No rate increases are provided in the case of the retail excises, the excises on transportation and communication or the admissions taxes, because the rates of these taxes generally are already quite high. Not only are most of these taxes imposed at rates around 20 percent, but also they are based on the retail price or the amount charged the consumer, which may range up to twice the manufacturer's price. As a result, these rates now are generally three to four times as high as most of the manufacturers' excises, usually levied at a 10 percent rate on the manufacturers' prices.

TABLE 11.—*Excise-tax revenue raised by the bill by major sources*

[At estimated fiscal year 1952 levels of production and consumption but in a full year of operation]

Type of excise tax	Additional revenue	
	House bill	Committee bill
	Millions of dollars	*Millions of dollars*
Alcoholic beverages	$252	$252
Tobacco products	177	167
Manufacturer	447	488
Retail	−5	−7
Transportation and communication	−5	−14
Amusement and recreation	−21	−18
Gambling	407	407
Total	1,252	1,275